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EXECUTIVE ORDER

No. 41: REQUIRING FURTHER ENVIRONMENTAL REVIEW

WHEREAS, the 2009 New York State Energy Plan supports the development of in-State energy resources, including natural gas, to achieve the Plan's multiple public policy objectives; and

WHEREAS, low-volume hydraulic fracturing, or conventional fracking, has been used successfully and safely in New York State for many years to extract natural gas consistent with the Generic Environmental Impact Statement (GEIS) for Oil, Gas and Solution Mining Regulatory Program promulgated by the New York State Department of Environmental Conservation (Department) in 1992; and

WHEREAS, new technologies have emerged, and are being deployed in other states, to extract natural gas more efficiently through a process known as high-volume hydraulic fracturing combined with horizontal drilling; and

WHEREAS, there is a need for further study of this new technology prior to deployment in New York State; and

WHEREAS, in 2008, I directed the Commissioner of Environmental Conservation to initiate a formal public process to update the 1992 GEIS to ensure that any new technologies deployed in New York State are first thoroughly analyzed and regulated to ensure that all environmental and public health impacts are mitigated or avoided; and

WHEREAS, the Department issued a draft scope for an updated GEIS on October 6, 2008, held public meetings in the Marcellus shale region, received more than 3,000 written comments, and issued a final scope for the Supplemental Generic Environmental Impact Statement (SGEIS) on February 6, 2009. The Department released the Draft SGEIS for public review and comment on September 30, 2009, held four public hearings in the region and New York City, and received more than 13,000 written comments during a public comment period that closed December 31, 2009; and

WHEREAS, tens of thousands of citizens, landowners, local governments, large and small businesses, non-governmental organizations, and other stakeholders have expressed their heartfelt support for or opposition to the new technology, but most agree that an objective, science-based analysis is the best approach to setting new policy.

NOW, THEREFORE, I, David A. Paterson, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and laws of the State of New York, do hereby order as follows:

1. The Department shall complete its review of the public comments, make such revisions to the Draft SGEIS that are necessary to analyze comprehensively the environmental impacts associated with high-volume hydraulic fracturing combined with horizontal drilling, ensure that such impacts are appropriately avoided or mitigated consistent with the State Environmental Quality Review Act (SEQRA), other provisions of the Environmental Conservation Law and other laws, and ensures that adequate regulatory measures are identified to protect public health and the environment; and
2. On or about June 1, 2011, the Department shall publish a Revised Draft SGEIS, accept public comment on the revisions for a period of not less than thirty days, and may schedule public hearings on such revisions to be conducted in the Marcellus shale region and New York City; and
3. Recognizing that, pursuant to SEQRA, no permits may be issued prior to the completion of a Final SGEIS, the Department, subsequent to the conclusion of the public comment period, shall report to the Governor on the status of the Final SGEIS and the regulatory conditions that are necessary to include in oil and gas well permits to protect public health and the environment.

G I V E N under my hand and the Privy Seal of the State in the City of Albany this thirteenth day of December in the year two thousand ten.

BY THE GOVERNOR

Secretary to the Governor